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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/470,196 12/21/99 SULLIVAN

M P-3724-2-F1-

EXAMINER

QM12/0523

DONALD R BAHR ESQ
SPALDING & EVENFLO COMPANIES INC
5730 NORTH HOOVER BOULEVARD
TAMPA FL 33634

GRAHAM, M

ART UNIT

PAPER NUMBER

3711

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DATE MAILED:

~~05/23/00~~

remailed

6/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/470,196	12/21/99	SULLIVAN	P-3724-2-F1-

QM21/0626
DIANE COVELLO, ESQ.
SPALDING SPORTS WORLDWIDE, INC.
425 MEADOW STREET
P.O. BOX 901
CHICOPEE MA 01021-0901

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GRAHAM, M	
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Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/470,196

Applicant(s)

Sullivan

Examiner

Mark S. Graham

Group Art Unit

3711



☒ Responsive to communication(s) filed on Dec 21, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 7-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 7-14 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 7-14 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-6 of copending Application No. 08/870,585. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: A golf ball comprising a hard inner layer and a soft outer layer wherein the inner layer is formed of a blend of low acid ionomers containing no more than 16% by weight of an alpha, beta-unsaturated carboxylic acid.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

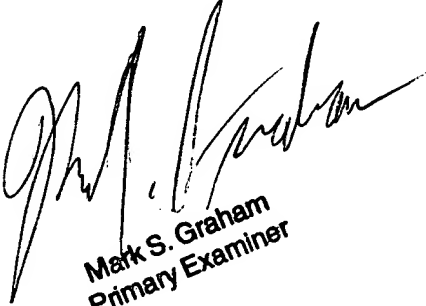
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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, each of the critical features now claimed but not apparent to the eye must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Proudfit, Nesbitt, and Nakamura have been cited for interest because they disclose similar balls.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number (703) 308-1355.

MSG
May 19, 2000



Mark S. Graham
Primary Examiner

Notice of References CitedApplication No.
09/470,196Applicant(s)
SullivanExaminer
Mark S. GrahamGroup Art Unit
3711

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U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS
	A	5,068,151	11/1991	Nakamura	473	377
	B	5,314,187	5/1994	Proudfit	473	374
	C	4,431,193	2000 11/1991 89	Nesbitt	473	374
	D					
	E					
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	G					
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	I					
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FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUBCLASS
	N						
	O						
	P						
	Q						
	R						
	S						
	T						

NON-PATENT DOCUMENTS

		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	U		
	V		
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	X		

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